

Fifteenth Kerala Legislative Assembly

Bill No.48

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**THE KERALA MARINE FISHING REGULATION
(AMENDMENT) BILL, 2021**

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BILL

further to amend the Kerala Marine Fishing Regulation Act, 1980.

Preamble.—WHEREAS, it is expedient further to amend the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981) for the purposes hereinafter appearing;

BE it enacted in the Seventy-second Year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Kerala Marine Fishing Regulation (Amendment) Act, 2021.

(2) It shall be deemed to have come into force on the 5th day of October, 2020.

2. *Amendment of preamble.*— In the preamble of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981) (hereinafter referred to the principal Act), after the words "fishing vessels in the sea", the words "as well as the fishermen in the fishing vessels" shall be inserted.

3. *Insertion of new sections.*— In the principal Act, the section "5" shall be renumbered as section "4A" and after section 4A, so renumbered, the following sections shall be inserted, namely:—

“ 5. *Power to restrict and regulate fishermen in fishing vessels.*—No owner of a fishing vessel shall allow any person in his fishing vessel unless he is a fisherman as defined in the Kerala Fishermen Welfare Societies Act, 1980 (Act 7 of 1981) and having biometric identity card issued by the Fisheries Department:

Provided that nothing contained in this section shall prevent the owner of a fishing vessel from employing labourers in the fishing vessels possessing Aadhar Card or identity card issued under the Kerala Migrant Workers' Welfare Scheme, 2010:

Provided further that nothing contained in this section shall prevent the owner of a fishing vessel from employing licensed crew possessing Aadhar Card for the operation of the fishing vessel in the sea.

5A. *Prohibition of use of fishing vessel for the purposes other than fishing.*—No owner of a fishing vessel shall use, or cause or allow to be used, the fishing vessel for any purpose other than fishing without the prior permission of the Authorised Officer.” .

4. *Amendment of section 17.*— In section 17 of the principal Act,—

(i) for sub-section (1) and clauses (a) and (b) thereof, following shall be substituted, namely:—

“(1) Where the adjudicating officer, after inquiry under section 16 finds that,—

(a) any owner/master of a fishing vessel has contravened the provisions of sections 4A, 7 or 9, he shall be liable to the following penalty, namely:—

(i) if the horse power of the fishing vessel so used is upto ten hp, five thousand rupees;

(ii) if the horse power of the fishing vessel so used is above ten hp and upto twenty five hp, ten thousand rupees;

(iii) if the horse power of the fishing vessel so used is above twenty five hp and upto fifty hp, twenty-five thousand rupees;

(iv) if the horse power of the fishing vessel so used is above fifty hp and upto ninety hp, fifty thousand rupees;

(v) if the horse power of the fishing vessel so used is above ninety hp and upto one hundred and twenty hp, ninety thousand rupees;

(vi) if the horse power of the fishing vessel so used is above one hundred and twenty hp and upto one hundred and fifty hp, one lakh and twenty thousand rupees;

(vii) if the horse power of the fishing vessel so used is above one hundred and fifty hp and upto two hundred hp, one lakh and fifty thousand rupees;

(viii) if the horse power of the fishing vessel so used is above two hundred hp and upto two hundred and eighty hp, two lakh rupees; and

(ix) if the horse power of the fishing vessel so used is above two hundred and eighty hp, two lakh and fifty thousand rupees only.

(b) any person has used or caused or allowed to be used any non-motorized fishing vessel in contravention of the provisions of sections 4A, 5A or 9 or any rule made or order issued thereunder, shall be liable to penalty of an amount of five thousand rupees;” ;

(ii) clause (c) shall be omitted and the remaining clauses shall be relettered accordingly;

(iii) in clause (c), so relettered, the words “ any person has used or caused or allowed to be used” shall be inserted at the beginning and after “(c)”;

(iv) in clause (d), so relettered, the words “ any person has used or caused or allowed to be used” shall be inserted at the beginning and after “(d)”;

(v) after sub-section (4), the following sub-sections shall be inserted, namely:—

“(4a) Whoever contravenes any of the provisions of section 5, shall be liable to penalty which may extend to one thousand rupees:

Provided that in the case of second offence, penalty may extend to two thousand rupees and for subsequent offences penalty may extend to five thousand rupees.

(4b) Whoever contravenes any of the provisions of section 5A shall be liable to penalty as mentioned in clause (a) and (b) of sub-section (1) of section 17:

Provided that for the second or subsequent offence, the registration and licence of the vessel shall be cancelled and the fishing vessel shall be forfeited.

(4c) Whoever contravenes any of the provisions of this Act or any rule made thereunder shall, if no penalty is provided for the offence in the Act, shall be punishable with fine which may extend to five thousand rupees.” .

5. *Repeal and saving.*— (1) The Kerala Marine Fishing Regulation (amendment) Ordinance, 2021 (110 of 2021) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Kerala Marine Fishing Regulation Act, 1980 was enacted to regulate the fishing vessels in the sea along the coastline of the State. This Act was amended earlier in 2017 enhancing the rate of fine for the violation of the provisions of the Act. But fishermen community requested Government to reduce the rate of fine so enhanced. Considering their request to reduce the enhanced rate of fine, the State Government have decided to amend section 17 of the Act.

2. Government also decided to regulate the fishermen in the fishing vessels. Fishermen as defined in the Kerala Fishermen Welfare Societies Act, 1980 and labourers having valid identity card alone are allowed in the fishing vessels. For

this a new section is to be inserted as section 5 in the principal Act and the existing section 5 is to be renumbered as section 4A. Penalty is also provided for the violation of this section as per the new section 17 (4a). Government have noticed that fishing vessels are used for purposes other than fishing including criminal activities. Therefore, Government decided to amend the Act by inserting new section 5A, to regulate the use of fishing vessels for purposes other than fishing and for imposing fine for use of vessels in violation of such provisions.

3. As the Legislative Assembly of the State of Kerala was not in session and the said proposal had to be given effect immediately, the Kerala Marine Fishing Regulation (Amendment) Ordinance, 2020 (71 of 2020) was promulgated by the Governor of Kerala on the 4th day of October, 2020 and the same was published as Ordinance No.71 of 2020 in the Kerala Gazette Extraordinary No. 2264 dated 5th October, 2020.

4. A Bill to replace the said Ordinance could not be introduced in and passed by the Kerala Legislative Assembly in its session which commenced on the 31st day of December, 2020 and ended on the same day (special session); and in its session which commenced on the 8th day of January, 2021 and ended on the 22nd day of January, 2021. Hence, in order to keep alive the provisions of the said Ordinance, the Kerala Marine Fishing Regulation (Amendment) Ordinance, 2021 was promulgated by the Governor of Kerala on the 9th day of February, 2021 and the same was published as Ordinance No.25 of 2021 in the Kerala Gazette Extraordinary No.676 dated 10th February, 2021.

5. A Bill to replace the said Ordinance could not be introduced in and passed by the Kerala Legislative Assembly during its session which commenced on the 24th day of May, 2021 and ended on the 10th day of June 2021.

6. Hence, in order to keep alive the provisions of the said Ordinance, the Kerala Marine Fishing Regulation (Amendment) Ordinance, 2021 was promulgated by the Governor of Kerala on the 1st day of July, 2021 and the same was published as Ordinance No. 81 of 2021 in the Kerala Gazette Extraordinary No. 1942 dated 3rd July, 2021.

7. A Bill to replace the said Ordinance could not be introduced in and passed by the Kerala Legislative Assembly during its session which commenced on the 22nd day of July, 2021 and ended on the 13th day of July 2021.

8. Hence, in order to keep alive the provisions of the said Ordinance, the Kerala Marine Fishing Regulation (Amendment) Ordinance, 2021 was promulgated by the Governor of Kerala on the 23rd day of August, 2021 and the same was published as Ordinance No. 110 of 2021 in the Kerala Gazette Extraordinary No. 2502 dated 26th of August, 2021.

9. The Bill seeks to replace Ordinance No. 110 of 2021 by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The bill if enacted and brought into operation, would not involve any additional expenditure from the Consolidated Fund of the State.

SAJI CHERIAN.

EXTRACTS FROM THE RELEVANT PORTION OF THE KERALA MARINE
FISHING REGULATION ACT, 1980

(ACT 10 OF 1981)

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Preamble.- WHEREAS, it is necessary to provide for the regulation of fishing by fishing vessels in the sea along the coast line of the State, registration of boat building yard and fishing net production unit, constitution of fisheries management councils and for matters connected therewith or incidental thereto.

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5. Prohibition of use of fishing vessel in contravention of any order made under Section 4.— No owner or master of a fishing vessel shall use, or cause or allow to be used, such fishing vessel for fishing in any manner which contravenes an order made under S. 4:

Provided that nothing in such order shall be construed as preventing the passage of any fishing vessel from, or to, the shore, through any specified area to, or from, any area other than a specified area for the purpose of fishing in such other area or for any other purpose:

Provided further that the passing of such fishing vessel through any specified area shall not in any manner cause any damage to any fishing nets or tackles belonging to any person who engages in fishing in the specified area by using any traditional fishing craft such as catamaran, country craft or canoe.

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17. Penalty.— (1) Where the adjudicating officer, after enquiry under section 16, finds that any person has used or caused or allowed to be used,—

(a) any fishing vessel fitted with 100 hp engine or above as single or in toto or any mechanised fishing vessel in contravention of the provisions of section 5 or 7 of this Act or any rule made or order issued thereunder shall be liable to penalty of an amount of two lakh and fifty thousand rupees;

(b) any non-mechanised fishing vessel fitted with engine in between 10 hp and 100 hp as single or in toto, in contravention of the provisions of section 5 or 7 of this Act or any rule made or order issued thereunder shall be liable to penalty of an amount of one lakh rupees;

(c) any non-motorised fishing vessel or any motorised fishing vessel fitted with 10 hp engine or below, in contravention of the provisions of section 5 or 7 of this Act or any rule made or order issued thereunder shall be liable to penalty of an amount of ten thousand rupees;

(d) any boat building yard in contravention of the provisions of section 9C of this Act or any rule made or order issued thereunder or has violated any of the conditions of the registration certificate or licence, shall be liable to penalty of an amount of two lakh and fifty thousand rupees;

(e) any fishing net production unit in contravention of the provisions of section 9F of this Act or the rules made or order issued thereunder or has violated any of the conditions of the registration certificate or licence, shall be liable to penalty of an amount of two lakh and fifty thousand rupees:

Provided that where the penalty under this sub-section is imposed on a person for the second or subsequent time and for the same offence, such person shall be punished with double the amount of the penalty and the registration or licence or both shall be suspended or cancelled:

Provided further that if the person has not remitted the penalty imposed under this sub-section, the fishing vessel shall be seized and in the case of the boat building yard and fishing net production unit, and it shall be sealed and shall be forfeited or attached and sold, as the case may be, to the Government after giving proper notice, in the manner as may be prescribed.

(2) In addition to any penalty that may be imposed under sub-section (1), the fish seized under section 14 shall be forfeited to the Government.

(3) No person shall, on and from such date as may be notified by the Government, use such type of fishing vessel specified in such notification,—

- (a) without holographic registration plate;
- (b) without life saving appliances;
- (c) without certified syrang;
- (d) without certified engine driver;
- (e) without signal flag and light;
- (f) without colour coding.

(4) Any person who violates any of the provisions of sub-section (3) and found guilty shall,—

(a) in the case of non-motorised fishing vessel fitted with 10 hp engine or below, be liable to pay a penalty of two thousand and five hundred rupees;

(b) in the case of fishing vessel fitted with engine in between 10 and 100 hp, be liable to pay a penalty of ten thousand rupees;

(c) in the case of fishing vessel fitted with 100 hp engine or above, be liable to pay a penalty of twenty five thousand rupees:

Provided that where the penalty under this sub-section is imposed on a person for the second or subsequent time and for the same offence, such person shall be punished with double the amount of the penalty and the licence shall be suspended or cancelled:

Provided further that if the person has not remitted the penalty imposed under this sub-section, the fishing vessel shall be impounded.

(5) Any amount of penalty imposed under this Act may be recovered as if it were an arrear of public revenue due on land."

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